

REMARKS

This Amendment, submitted in response to the Office Action dated September 10, 2004, is believed to be fully responsive to each point of rejection raised therein. Accordingly, favorable reconsideration on the merits is respectfully requested.

Claims 1-41 are all the claims pending in the application.

I. Drawings

The Examiner has objected to the drawings because reference characters “14” and “36” have both been used to designate a network.¹ Reference character 14 refers to a “network” and reference character 36 refers to a “network backbone”. See specification at page 13, lines 1-12. The network backbone 36 can be embodied in different configurations such as wire, fiber optic line, wireless electromagnetic communications by visible light, infrared, and radio frequencies. See specification page 13, lines 10-12. The network 14 may comprise a single local area network, a wide area network, several adjoining networks, an intranet, or a system of interconnected networks. See specification at page 13, lines 13-16.

Based upon the foregoing, it is apparent that network 14 is not the same as network backbone 36. Therefore, Applicant respectfully requests that the objection to the drawing be withdrawn.

¹ After clarifying the matter with Examiner Robinson during a telephonic discussion, the Examiner indicated that the objection is with respect to Fig. 1 and that an explanation of elements 14 and 36 is requested for clarification.

II. Rejection of claims 1-41 under 35 U.S.C. § 112, second paragraph

The Examiner rejects claim 1 asserting that “each group corresponding to one or more application programs” lacks proper antecedent basis. Applicant respectfully submits that there is no antecedent issue with respect to this language of claim 1. Claim 1 describes an apparatus for filtering a plurality of groups of query statements. Each group of the plurality of groups of query statements correspond to one or more application programs. Further, Applicant submits that one of ordinary skill in the art would not confuse the plurality of groups of query statements with the group listing module of claim 2. Consequently, Applicant respectfully requests that the rejection of claim 1 be withdrawn.

The Examiner rejects claim 3 stating that the limitation “the group listing” lacks antecedent basis. The aspect of claim 3 identified by the Examiner refers to “the group listing module” which is recited in claim 2. The dependency of claim 3 has consequently been amended. Consequently, the rejection of claim 3 should be withdrawn.

The Examiner rejects claims 9 and 36 asserting that the limitation “the package identification date” lacks antecedent basis. Claims 9 and 36 have been amended as indicated above. Consequently, the rejection of claims 9 and 36 should be withdrawn.

III. Double Patenting Rejection

Claims 1-41 have been rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 18 and 35 of USP 6,539,371 (hereinafter ‘317 patent).

The Examiner asserts that “An apparatus for filtering a plurality of groups of query statements according to identification data associated therewith” as recited in claim 1, reads upon

the “An apparatus for filtering a set of query statements according to query explain data associated therewith” language of claim 1 of the ‘371 patent. In particular, the Examiner asserts that the “query explain data” of claim 1 is equivalent to the “identification data” of the ‘371 patent.

However, it is respectfully submitted that a person of ordinary skill in the art would not understand *identification data* to be *query explain data* or to suggest using *query explain data* since there is no teaching or suggestion that *identification data* explains a query, and vice versa. Nor has the Examiner established that this is the case.

Further, claim 1 describes that each group of the plurality of groups of query statements corresponds to one or more *application programs* posing queries to a database. The ‘371 patent describes that query explain data is generated by a database, however, there is no indication of an *application program* as recited in Applicant’s claim 1.

Therefore, it would be apparent to one of ordinary skill in the art, that claim 1 of the present invention is patentably distinct from claim 1 of the ‘371 patent. Consequently, claim 1 and its dependent claims should be deemed patentable. Claims 15 and 28 are not made obvious over claims 18 and 35 of the ‘371 patent for at least the same reasons. Therefore, claims 15 and 28 and their dependent claims should also be deemed patentable.

IV. Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

AMENDMENT UNDER 37 C.F.R. § 1.111
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The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



Ruthleen E. Uy
Registration No. 51,361

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE
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